

**Hearing of the
House International Relations' Subcommittee
on Europe and Emerging Threats
on "Ukraine: Developments in the Aftermath of the Orange
Revolution"**

Testimony by Ambassador Daniel Fried
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Mr. Chairman, Members of the Committee, I am pleased to be here today to discuss with you current developments in Ukraine.

As requested, I shall provide our assessment of the situation in Ukraine seven months after the historic Orange Revolution. I will also discuss our bilateral agenda with Ukraine, as laid out in the Joint Statement of Presidents Bush and Yushchenko in April of this year, and our views on the way ahead in U.S.-Ukrainian relations. I would also like to share some impressions from my recent visit to Kiev, my first to Ukraine as Assistant Secretary for European and Eurasian Affairs.

The Orange Revolution and U.S. Policy

At a pivotal moment in their nation's history, the Ukrainian people rejected a stolen election and chose freedom, democracy, and the rule of law over corruption and intimidation. In the weeks following the fraudulent November 21 second-round presidential vote, hundreds of thousands of ordinary Ukrainians braved snow, frigid temperatures, and a real threat of violence in order to peacefully take back control of their country's destiny and freely choose their leadership. Their courage and conviction captured the imagination of the world. We were, I submit, witnesses to a Ukrainian national identity taking shape through and thanks to a democratic transformation.

The consolidation of such a democratic transformation in Ukraine would have a profound and beneficial impact on its region. A democratic, free, and prosperous Ukraine would encourage reformers in neighboring countries, and in nations to its east. Our stake in this effort is high. The United States does not seek any sort of geopolitical advantage in Ukraine. Nor do we need to. As we learned beginning in 1989, the advance of American interests in what used to be known as the Soviet Union and Soviet Bloc is inextricably linked to the success of common values.

I am therefore proud of the role the U.S. and our European allies played in support of the Ukrainian people at this historic moment. Well before the election, we made clear to then-President Kuchma that we took him at his word when he said he would not run for a third term. The U.S. government never favored a specific candidate, and pledged to work with whoever won a free and fair election. Our objective was to seek to bring about conditions so that Ukrainians had an opportunity to choose their next leader without coercion or manipulation. To that end, we helped train and field domestic and international observers; educated judges on Ukraine's new election law; funded exit polls, media monitors, and parallel vote counts; and stressed that we viewed the conduct of the election as a test of Ukraine's commitment to democracy. U.S. assistance was fully transparent and focused on improving the integrity of the election process so that Ukrainians could better determine their own future. I am proud of our efforts.

We also warned that, should the election be judged less than free and fair by international standards, there would be consequences for our relationship, for Ukraine's hopes for Euro-Atlantic integration, and for the individuals responsible for perpetrating violations. In fact, even before election day, several individuals clearly implicated in corrupt electoral manipulation did face consequences, for example, being told they would be unable to obtain a visa to travel to or conduct business in the United States. Such actions stained the reputations of key actors and served as a deterrent for others.

After credible reports of widespread violations and fraud, we made it known that we did not recognize the legitimacy of the November 21 results. We stressed that we expected the will of the Ukrainian people to be upheld, and that the use of force against peaceful demonstrators was unacceptable. In this effort, we worked closely with Europe, especially the European Union. I believe that our efforts, combined with those of European leaders – and particularly those of Presidents Kwasniewski and Adamkus, EU High

Representative Solana and OSCE Secretary General Kubis – contributed to the peaceful and just outcome to the crisis. But we must remember who the true heroes were: ordinary Ukrainians, who did extraordinary things.

A Difficult Environment

The Ukrainian people's heroic choice of freedom was a giant leap forward in Ukraine's journey toward democracy and prosperity. It has ushered in the prospect of a profound change in Ukraine comparable to 1989 in Central Europe. But now the poetry of the Orange Revolution needs to be translated into the prose of programs to transform the Ukrainian polity, economy and society and prepare Ukraine to become a full-fledged member of the Euro-Atlantic community.

President Yushchenko and his government have set out a broad and ambitious agenda for transforming Ukraine into a modern European state. It is, I believe, the right direction. But Ukraine's new leaders are undertaking reforms in a complex and difficult political environment:

- First, the Orange Revolution lifted expectations extraordinarily high, both at home and among Ukraine's friends abroad. Meeting these expectations will require focus, hard work, consensus-building, and sustained implementation of reforms.
- Second, opposition to reforms remains strong. President Yushchenko's anti-corruption campaign threatens powerful interests, and the presidential election exacerbated regional tensions and, as a result of desperate campaign tactics, spurred concerns about separatism. Some of these concerns seem to have receded, however, as polls show substantially greater confidence in President Yushchenko and his government emerging in eastern and southern Ukraine. The mainstream opposition leaders also deserve credit for putting the separatist card back in the deck.
- Third, the new government is operating against the backdrop of the upcoming parliamentary elections in March 2006. The President and government recognize the importance of obtaining a working majority in the parliament (Rada) to implement their vision for Ukraine. Nevertheless, the government must be careful as it considers measures that may in the short term gain favor with voters but in the longer term

threaten Ukrainian leaders' ability to reform and liberalize the economy and secure key priorities such as joining the WTO, attracting foreign investment, and achieving Market Economy Status.

- Fourth, the government is a coalition with ministers and others drawn from different parties with different philosophies and interests. There are also competing personal agendas. Democracy is messy, and unity is not the highest political value. But the new team must function as it faces hard decisions. Discord between coalition members has sometimes spilled out into the open, complicating decision-making.
- Finally, Russia still looms large in Ukrainian calculations. Ukraine's leaders know they must work hard to forge good relations with their eastern neighbor, while seeking closer integration with the West. At the same time, Russia needs to work hard to maintain a positive relationship with Kiev. Good, strong Ukrainian-Russian relations, and a successful, democratic and fully sovereign Ukraine able to make its own choices about its future, are in everyone's interest.

Impressive Successes

Despite this complex environment, President Yushchenko and his team have achieved significant successes in their first six months in office. On the domestic front, they have transformed the political scene. Respect for the rights of citizens has improved dramatically. The opposition has freedom of assembly, as witnessed by frequent and peaceful marches and demonstrations. The media operates more freely in contrast to the previous regime, when intimidation, pro-government ownership, favoritism in granting broadcast rights and frequencies, and government press guidance – the notorious “temnyky” – were the order of the day. However, self-censorship and concentrated ownership of the media are still a concern. The courts appear to be more independent, following the example of the Supreme Court's December 3 ruling that the second-round vote was flawed and that the run-off should be repeated. And, while far from perfect, the government does appear to be more transparent and open about its business. The press regularly reports on vigorous intra-governmental policy debates. In short, President Yushchenko and his government are forging a genuine democracy.

President Yushchenko and his team have also moved to combat endemic corruption by removing and sometimes prosecuting officials who abused their positions to enrich themselves, and by closing loopholes in legislation that allowed for graft. The anti-corruption campaign has already resulted in increased revenues from the Customs and Tax Services. Nevertheless, it is important that President Yushchenko ensures the honesty of his own government, and that its members not succumb to the temptations of corruption. Prosecutions are vital in deterring officials from engaging in corruption, but the authorities must avoid perceptions of political retribution and not be overzealous nor pursue unjustified cases against those associated with the previous government. The government should also continue to investigate such cases as the 2000 murder of the journalist Heorhiy Gongadze. The government has shown a new commitment to fighting trafficking in persons. It created a new department in the Ministry of Interior dedicated to fighting this scourge and has scored some victories on this front.

Delivering on its promise to increase the force of the market in the Ukrainian economy, the Yushchenko government has ended years of tax privileges for the powerful business oligarchies. After fierce debate, the Rada passed significant legislation related to WTO accession, lowering agricultural tariffs, reducing discriminatory trade measures, and strengthening protection of intellectual property rights.

Some of the new administration's most impressive successes have been in the foreign policy realm. President Yushchenko has dramatically transformed Ukraine's international image and put relations with the U.S. and Europe on a new track. In his foreign visits, he has exercised Ukraine's sovereignty, orienting itself toward Europe, putting its own interests first and foremost. He has committed Ukraine to supporting democracy and human rights both in the region and further abroad, as witnessed by Ukraine's votes for the UNCHR resolutions on Cuba and Belarus. These votes were not easy – Belarus is a neighbor, and Cuba has provided humanitarian assistance to child victims of the Chornobyl tragedy – and the Ukrainian government deserves credit for doing the right thing and adhering to its democratic principles. We are proud to have a new partner in the advance of freedom in this region.

President Yushchenko's energetic engagement of European leaders has already borne fruit, helping to produce an offer of Intensified Dialogue on

Ukraine's NATO Membership Aspirations in April. In February, President Yushchenko also signed a three-year cooperation plan with the EU. This agreement aims to build capacities for a wide range of reforms needed to bring Ukraine closer to European standards.

Ukraine has also demonstrated real leadership in the region. President Yushchenko has energized the GUAM (Georgia, Ukraine, Azerbaijan, and Moldova) group, focusing it on promoting democracy, economic development, and security in the region, while developing its links to countries in Central and Eastern Europe that offer successful track records of reform. He has injected new energy into confronting thorny regional problems, and has initiated a proposal to find a solution to the frozen conflict in Transnistria.

As I mentioned previously, Russia represents a particular challenge for the new Ukrainian government, but also opportunities. The Kremlin openly supported President Yushchenko's electoral rival, and has questions about the implications of Ukraine's new Euro-Atlantic orientation. I believe that President Yushchenko has done a good job of rebuilding ties and moving forward. The new Ukrainian administration understands that Ukraine and Russia are united by historical, cultural, language and economic bonds, and that good relations are essential. Of course, establishing strong relations is a two-way street. President Yushchenko has declared Ukraine and Russia to be "eternal strategic partners," and traveled to Moscow on his first foreign trip immediately after his inauguration. President Putin, in turn, visited Kiev in March, and the two presidents pledged to build stronger ties and maintain an open dialogue.

Some Concerns

We are greatly encouraged by the successes of the new government. But we are also concerned that, in the economic sphere, some essential free-market reforms have stalled. The new leadership may not have used the political capital it earned from the Orange Revolution as decisively as it could have to move Ukraine unequivocally toward a prosperous market economy integrated into the global economy. Specially, we are concerned by interventionist and inflationary policies that the Ukrainian government is pursuing, as well as by continued uncertainty over re-privatization. For example:

- Price controls on gasoline earlier in the year briefly produced shortages. President Yushchenko rescinded the measures, but the issue raised questions about the government's commitment to market principles. Continued protection of the agriculture sector, while not unique to Ukraine, also runs contrary to the steps Ukraine needs to undertake in order to join the WTO.
- The Yushchenko government has expanded on the commitments the previous government had made to increase pensions and public sector pay. Elimination of tax privileges and the government's anti-corruption campaign have dramatically increased state income, but the higher social spending, while understandable, has fueled inflationary pressures. Most observers predict a 2005 budget deficit of over three percent of GDP.
- We understand the arguments for re-privatization: under the previous regime, insiders used non-transparent means to grab major state enterprises at bargain-basement prices. But mixed signals about the extent of re-privatization have dampened both domestic and foreign investment. We welcome current Ukrainian efforts to establish clarity on the way ahead on this issue.
- While the tax and tariff privileges in the Special Economic Zones were largely used fraudulently, their abrupt elimination has caused problems for some foreign investors. We encourage predictability in economic policies affecting businesses, and are pleased to hear that President Yushchenko endorses this principle and is considering restoring some privileges to law-abiding businesses. Improving the climate for legitimate domestic and foreign investors is critical to Ukraine's economic future.
- Ukraine aims to diversify its energy supplies, reduce its energy dependence and bolster competition in the Eurasian energy sector. However, a vertically integrated, state-owned system of oil production, distribution, and sales – as some in the Ukrainian government advocate – will not improve the functioning of the market or address Ukraine's energy problems. We believe that Ukraine should instead focus on creating strong incentives and a stable

environment for the private sector. What Ukraine needs are competition, transparency, and private investment in its energy sector.

Some of these interventionist policies may seem attractive to the Ukrainian government as it seeks to strengthen its popular support in advance of the 2006 parliamentary elections. But we are urging the Ukrainian government to consider the consequences of adopting measures that may be popular in the short term but that, if continued and unaccompanied by strong pro-growth policies, would fuel inflation, reduce macroeconomic stability, and undermine sustainable growth. Such a set of policies would jeopardize key Ukrainian objectives, such as joining the WTO, attracting foreign investment, and obtaining Market Economy Status. In the long term, the tested free market reforms, including the proper regulatory functions of a modern state in a free market that we have witnessed elsewhere, are what will boost the Ukrainian people's prosperity, not short-term populist policies.

I detect from my recent visit to Kiev that senior Ukrainian officials recognize that they have had a rough initial period on economic policy, and are committed to getting reforms on track. In fact, in many of the areas I have cited, we have seen questionable decisions followed by a course correction. As the Ukrainian government gains its footing, we hope it will move forward decisively to implement the economic reforms so vital to achieving their vision of Ukraine.

In fact, the approach of key markers, such as WTO Hong Kong Ministerial in December does seem to be focusing minds. The Ukrainian government had been slow in making progress to pass important WTO-related legislation. The absence of amendments strengthening the law against media piracy, as well as continued high tariffs and arbitrary sanitary regulations on poultry and agriculture products had been an impediment in our own bilateral accession negotiations.

I am therefore pleased to report that the parliament's recent passage of the Optical Disk amendments, as well as other WTO-related laws, constitutes a major step forward. It encourages us to hope that the parliament will adopt and the government will implement the remaining WTO legislation, including revised sanitary and phytosanitary (SPS) rules, technical standards, bank branching authority, and revisions to the foreign economic activity law. It is important that all WTO-related bills be submitted for

review by the WTO members considering Ukraine's accession, to ensure consistency with WTO standards. We look forward to Ukraine doing so in the case of most of the recent laws.

U.S.-Ukraine Relations: A New Century Agenda

Since 1991, successive U.S. administrations have pursued steady objectives in relations with Ukraine: we seek to help Ukraine develop as a secure, independent, democratic, prosperous country with an economy based on free-market principles, one that respects and promotes human rights and abides by the rule of law, and draws closer to European and Euro-Atlantic institutions. During the latter half of the 1990s and the first years of the new century, however, U.S.-Ukrainian relations were in a holding pattern. The United States never forgot the strategic importance of Ukraine or lost faith in the Ukrainian people. But the scandals and corruption that came to characterize the previous regime presented serious obstacles to developing the kind of relationship we desired.

I am happy to say that the Orange Revolution has put us on a new trajectory, one characterized by open dialogue and closer cooperation. The interaction among senior U.S. and Ukrainian officials in 2005 has already intensified dramatically compared to 2003 and 2004.

We now have an historic opportunity to help Ukraine succeed with its reforms and advance its integration into Europe and Euro-Atlantic structures. Last November, President Bush said that we stood by the Ukrainian people in their hour of need. We did then, and we do today. Congress adopted the full \$60 million in supplemental assistance for Ukraine that the Administration requested. This amount is in addition to the \$79 million in assistance that we have already budgeted for Ukraine for fiscal year 2005 from FREEDOM Support Act funds.

We are working to ensure that the supplemental funds approved by Congress will help the new government pursue its highest and most immediate priorities. One focus will be on assistance to eastern and southern regions in Ukraine, where suspicion of reforms is strongest. We are directing the bulk of the funding toward programs and activities designed to:

- Combat corruption and promote judicial independence and the rule of law;

- Strengthen election administration and NGO capacities, and train independent observers in order to ensure free and fair parliamentary and local elections in March 2006;
- Support media openness through partnership programs and grants;
- Increase exchange programs and intensify outreach to eastern and southern Ukraine;
- Assist the Ukrainian government with WTO accession and with fiscal management issues, as well as with municipal government and agricultural sector reforms;
- Help Ukraine reduce its energy dependence, including through completion of the multi-year Nuclear Fuel Qualification Project;
- Support Ukraine's efforts to confront serious health issues such as the spread of HIV/AIDS and tuberculosis;
- Support coal mine safety in eastern Ukraine to generate small business development; and
- Facilitate the donation of millions of dollars of goods and supplies to needy Ukrainians.

President Yushchenko's visit to the U.S. in April represented a dramatic and positive shift in the relationship, and exemplified the new opportunities created by the Orange Revolution. In Washington, Yushchenko met with President Bush, Secretary Rice, Secretary Rumsfeld and other Cabinet officials, as well as with members of Congress and the Ukrainian-American community. I will not soon forget President Yushchenko's powerful and effective speech, and your warm welcome, at the historic joint session of Congress.

Presidents Bush and Yushchenko also agreed on a joint statement in Washington outlining the New Century Agenda for the American-Ukrainian Strategic Partnership. The document, which I encourage you to read as a

significant blueprint for our new relationship, focuses on concrete areas for our cooperation. Let me mention a few.

-- The United States and Ukraine pledge to work together to strengthen democratic institutions in Ukraine and to advance freedom in Europe, its neighborhood and beyond. We will work to defeat terrorism wherever it occurs and to advance economic development, democratic reforms and peaceful settlement of regional disputes. We will also work together to back reform, democracy, tolerance and respect for all communities, and peaceful resolution of conflicts in Georgia and Moldova, and to support the advance of freedom in countries such as Belarus and Cuba.

-- In the area of economic policy, the United States and Ukraine will continue close cooperation on the issues that are vital to Ukraine's growth and prosperity. The Ukrainian government will seek U.S. recognition as a market economy. We are committed to working together to achieve Ukraine's accession to the World Trade Organization (WTO) and to moving as rapidly as possible to lift the provisions of the Jackson-Vanik amendment. We have initiated an energy dialogue to advance Ukraine's plans to restructure and reform its energy sector to encourage investment, diversify and deepen its energy supplies, bolster commercial competition, and promote nuclear safety.

-- In terms of international relations, the United States pledges to support Ukraine's NATO aspirations and to help Ukraine achieve its goals by providing assistance with challenging reforms. Our support, however, cannot substitute for the important work that the Ukrainian government itself must undertake.

-- The fight against the proliferation of weapons of mass destruction and their means of delivery is one of the most important issues facing the international community today. The United States and Ukraine will deepen our cooperation on nonproliferation, export controls, border security and law enforcement. We hope to deter, detect, interdict, investigate and prosecute illicit trafficking of these weapons and related materials. We also hope to enhance the security of nuclear and radiological sources and responsibly dispose of spent nuclear fuel.

-- The security and stability of nations increasingly depends on the health, well-being and prosperity of their citizens. The United States and Ukraine

therefore have committed to cooperate on a broad agenda of social and humanitarian issues, including halting the spread of HIV/AIDS and TB; fighting the scourge of organized crime, trafficking in persons and child pornography; and completing the Chernobyl Shelter Implementation Plan. We also support a bold expansion of contact between our societies. To this end, the United States and Ukraine will work to lower the barriers that separate our societies and to enhance citizen exchanges, educational training opportunities and cooperation between business communities of both countries.

A New Century Agenda: Progress To Date

This is a bold and ambitious agenda for the United States and Ukraine. Some of the tasks it lays out are longer-term; others can be completed fairly quickly. We are in close touch with the Ukrainian government to discuss these and many other issues. Ambassador Herbst meets with high-level Ukrainian officials almost daily. Secretary Rice and other high-level officials from the State Department and other U.S. agencies consult with their Ukrainian counterparts frequently. Members of Congress travel to Ukraine on a regular basis. At any particular time we are in the process of making preparations for two or three delegations.

Among the most significant mechanisms for maintaining close contact is a new U.S.-Ukraine Bilateral Coordination Group. This group, which I co-chair, is composed of senior U.S. and Ukrainian officials from a number of different agencies and complements the work being done through our embassies and high-level visits. The group is responsible for overseeing progress on implementation of the New Century Agenda.

Our first session was just a few weeks ago in Kiev, and I am happy to report on progress to date on some of the priorities identified by Presidents Bush and Yushchenko. Our operational principle is simple: as Ukraine moves ahead in its reforms so will our relations and our response. This process is now underway:

-- NATO: The U.S. supports Ukraine's desire to draw closer to NATO. The pace, intensity, and end state of Ukraine's relationship with NATO will depend on Ukraine's own wishes, and on its willingness and ability to meet NATO performance-based standards through progress on reforms. For our part, we are committed to ensure that NATO's door remains open. We

proudly led Allies to offer Ukraine an Intensified Dialogue on NATO Membership Aspirations at the April meeting of NATO foreign ministers in Vilnius, Lithuania. Intensified Dialogue provides a platform for Ukraine to work closely with NATO to prepare for the Membership Action Plan (MAP) program, the formal path to NATO membership. There is still much work to be done. The key is now for the Ukrainian government to complete the political, economic, defense, and security reforms required for membership consideration, and to build domestic support in Ukraine. A free and fair parliamentary election conforming to international standards in March 2006 will be an important marker. We look forward to working with Ukraine and our Allies as we take the NATO-Ukraine relationship to a new and more collaborative level.

-- NATO PfP Trust Fund: Also at NATO, the U.S. announced that it would lead the first stage of a Partnership for Peace Trust Fund project to destroy obsolete and excess munitions, weapons, and MANPADS in Ukraine. Ukraine has enormous weapons stockpiles and ammunition dumps on its territory that present public safety, environmental and proliferation risks. There have already been explosions and fires at a number of these facilities as the result of accidents and unstable munitions. Given the size of the problem, the NATO PfP destruction program is fittingly the largest project of its kind ever undertaken anywhere. It will take about a dozen years to complete. As lead nation in the program, the U.S. is responsible for soliciting donations to the trust fund from other Allies. To date, the U.S. leads all donors with an initial contribution of \$2.14 million. Destruction activities should begin in the next few weeks.

-- Iraq and the Global War on Terrorism: The U.S. deeply appreciates Ukraine's substantial military contribution toward building a peaceful, secure, and democratic Iraq. In keeping with his campaign promise to the Ukrainian people, President Yushchenko is conducting a phased withdrawal of the Ukrainian contingent in MNF-I throughout 2005, which will see the remaining troops return to Ukraine by the end of the year. Ukraine has consulted closely with us and with other coalition partners at every step. Ukraine, however, has made it clear that it will remain committed to helping Iraq. Ukraine will retain trainers and some staff officers in Iraq after the primary contingent departs, and has indicated its willingness to participate in reconstruction projects in a number of different economic sectors. Ukraine has also expressed interest in contributing to NATO's Training Mission in Iraq, and we are encouraging their participation in that effort.

-- We also are very grateful for Ukraine's support for Operation Enduring Freedom in Afghanistan. Ukraine has provided thousands of over-flight clearances, as well as military supplies to the Afghan National Army. Ukraine also has continued to play an active and constructive role in peacekeeping operations around the world, such as its 320-person contingent in Kosovo. Ukraine has also contributed troops and considerable resources to peacekeeping operations in Lebanon, Sierra Leone, Liberia, the Golan Heights, and Burundi. In short, Ukraine has been a key partner and contributor to common security and the global fight against terrorism. In recognition of this cooperation, we are including Ukraine in the Coalition Solidarity Fund and will continue to provide monies to assist with peace-keeping operations and other activities, such as for military inter-operability with NATO and for equipment and training.

-- Non-Proliferation: We have made good progress with Ukraine on our non-proliferation agenda since the Orange Revolution building on a new political will from the Ukrainian leadership. We applaud Kiev's decision to expand our dialogue on these issues, and we are pleased to note a new openness in our discussions. Since March, Ukraine has signed the Second Line of Defense agreement to install radiological portal monitors at border locations; signed an Implementing Agreement to improve the security of radiological sources at the RADON sites in Ukraine; added certain chemical precursors to its control lists and consequently was admitted into the Australia Group; and agreed to destroy its last five strategic bombers and associated missiles under an existing DOD CTR project. We are working closely with the Ukrainians on these issues as well as on concluding a Biological Threat Reduction Implementation Agreement (BTRIA) and on the disposal of highly enriched uranium from sites in Ukraine. Ukraine is becoming a key partner in preventing illegal arms exports.

-- WTO: The Ukrainian government has identified accession to the WTO this year as a major priority, and we strongly support Ukraine's bid. We have provided technical advice to the government and are consulting regularly in the informal working party meetings in Geneva. The Ukrainian government has struggled to push needed WTO-compatible legislation through parliament, but as I mentioned earlier – after a concerted effort by President Yushchenko, Prime Minister Tymoshenko, and Rada Speaker Lytvyn – on July 6-7 the Rada passed a number of important WTO-related bills. These included a set of amendments to Ukraine's Optical Disk

legislation, which will strengthen Ukraine's protection of intellectual property rights, and bills on agricultural tariffs, insurance branching, auditing, automobiles, and oilseed export duties. But much remains to be done. If the government hopes to achieve its objective of joining the WTO this year, it must launch an all out effort to consolidate support and pass more legislation in the Rada this fall, and bring to closure the outstanding bilateral negotiations. But Ukraine's WTO prospects do appear to be brighter today than a month ago.

-- With regard to the U.S.-Ukrainian agenda, passage of the Optical Disk amendments was particularly significant. The Administration expects to see quick and effective implementation of these amendments and strengthening of the enforcement of all IPR laws. Now that President Yushchenko has signed the amendments, without changes, into law, the Administration is examining whether to terminate \$75 million worth of trade sanctions currently imposed on Ukraine. This decision could be made within the next few weeks. In addition, the Administration will conduct a Special 301 out-of-cycle review of Ukraine, which is currently identified as a Priority Foreign Country because of a record of media piracy and weak enforcement of IPR legislation. We will also consider whether Ukraine's Generalized System of Preferences (GSP) benefits should be restored. We will continue to work with Ukraine on IPR issues in the context of the out-of-cycle review and our bilateral negotiations regarding Ukraine's WTO accession. With regard to the latter, Ukraine must address additional tariff, non-tariff, and services issues in its bilateral negotiations with us.

-- Market Economy Status: In April, the Department of Commerce initiated a review of the Ukrainian government's petition for designation of Market Economy Status (MES). The review is a quasi-judicial process and must be completed by mid-January 2006. Department of Commerce officials have met several times with Ukrainian officials to discuss Ukraine's petition, and Commerce teams visited Kiev in March and again this month to go over the review process. For example, we have urged the government of Ukraine to reach out to foreign investors and address some of the concerns of the business community. We need to see the Ukrainian government taking decisions this fall which demonstrate its increasing commitment to free-market principles.

-- Jackson-Vanik: Ukraine has complied with the provisions of the Jackson-Vanik Amendment to the Trade Act of 1974 for over a decade. This

Administration strongly supports Ukraine's immediate "graduation" from Jackson-Vanik and the extension of Permanent Normal Trade Relations to Ukraine. Some have resisted acting on Jackson-Vanik until Ukraine better addresses commercial issues, such as IPR. We view our WTO bilateral negotiations as the appropriate forum in which to press Ukraine on our commercial and trade concerns rather than using Jackson-Vanik. Nonetheless Ukraine's recent approval of Optical Disk amendments and other WTO-related legislation should merit reconsideration of the delay on graduation. As the Ukrainian people look for tangible signs of our new relationship, they are perplexed that Ukraine remains tainted by the legacy of Jackson-Vanik. We urge Congressional action on this matter.

-- Energy: During his May visit to Kiev, Secretary Bodman initiated a consultative mechanism to help advance Ukraine's plans to restructure and reform its energy sector, diversify its energy supplies, and encourage investment. We have urged the Ukrainians to address the commercial viability of any energy strategy. U.S. firms are eager to invest in Ukraine, and it is vital that the government of Ukraine work with the private sector and create a transparent and supportive framework for investment.

-- Chornobyl: The Chornobyl Shelter Implementation Plan (SIP) is a key element of the successful G7 effort that led to the permanent closure of the last operating nuclear reactor at Chornobyl in 2000. Together, the international donor community and Ukraine have pledged over \$1 billion to complete the SIP. The U.S. is the largest single donor. Our May 2005 pledge of \$45 million brings our cumulative total to \$203 million.

-- Visas: We warmly welcome President Yushchenko's July 1 decree eliminating visa requirements for U.S. citizens traveling to Ukraine for business and personal trips of 90 days or less within a six-month period. President Yushchenko's far-sighted move, which complements an earlier similar decision to eliminate short-term visa requirements for citizens of EU countries and Switzerland, should boost tourism and investment, and facilitate people-to-people contacts. In response, we have eliminated non-immigrant visa issuance fees for Ukrainians, leaving only the (\$100) non-waivable application fee that is charged worldwide to all applicants for short-term U.S. visas.

-- Health: HIV/AIDS is spreading in Ukraine at an alarming pace. As I mentioned previously, we intend to use some of the supplemental funding

granted to us by Congress to expand the reach of ongoing anti-HIV/AIDS projects. We intend to help the Ukrainian authorities strengthen national institutions dealing with HIV/AIDS and its victims, expand care and support service for HIV-affected children from two to five of the eight most affected regions in Ukraine, and support legislation and policies for a national anti-retroviral treatment program and national prevention programs among key risk groups. Ukraine's current system for TB control is costly and ineffective. We plan to use some of the supplemental funding for prevention and care for HIV/TB co-infection, and to replicate a successful pilot project that dramatically decreases the cost and improves the effectiveness of TB treatment.

Conclusion

Earlier this month I led an inter-agency team to Kiev to meet with President Yushchenko, Prime Minister Tymoshenko, State Secretary Zinchenko, National Security and Defense Council director Poroshenko, Speaker Lytvyn, Foreign Ministry representatives, and others. I conveyed a simple message to all of my Ukrainian interlocutors. Ukraine has an historic window of opportunity – created by the heroism and determination of the hundreds of thousands of ordinary citizens who came together in the Maidan in Kiev and in the central squares of cities throughout Ukraine – to consolidate and make permanent reforms that will ensure a democratic, prosperous future within a Europe whole, free and at peace. The U.S. supports Ukraine's reform efforts and European and Euro-Atlantic aspirations and will respond meaningfully to key initiatives. But, like other reforming nations such as Poland before it, Ukraine and its leaders must make the necessary decisions and take the necessary steps. Ukraine's future is in its hands.

As I said at the outset, there are enormous expectations of the new government, and, given the complex and difficult environment and the enormity of the task at hand, Ukraine's transformation will not happen overnight. But it is vital that Ukraine's new leaders persevere and succeed. The stakes are clear for Ukraine, and the success of the Orange Revolution will have impacts beyond Ukraine's borders. It inspires hope in the hearts of the oppressed and signals that democratic freedom is on the ascendance.

To succeed, Ukraine's leaders must invest their substantial political capital in further reforms, particularly in the economic sphere where progress has

been slow. There is never an easy time for difficult, but necessary reform: there is always an election on the horizon, a bureaucracy that resists, a constituency that opposes. But if the will is there, reform can be achieved. The Central European states have come a long way since 1989, and I personally witnessed the success of Poland's reforms in the 1990s. From my meetings in Kiev, I am confident that President Yushchenko and his team have the vision and commitment necessary to do what needs to be done, and to lead Ukraine into the new century. The U.S. will pitch in to help.

Thank you very much for allowing me to appear before your Committee today. I would be happy to answer any questions you may have.

